

6TH JUDICIAL DISTRICT • KNOX COUNTY, TENNESSEE

CHARME P. ALLEN
OFFICE *of the* DISTRICT ATTORNEY GENERAL
P.O. BOX 1468 • KNOXVILLE, TN 37901-1468
PHONE 865.215.2515 • FAX 865.215.4253

November 7, 2019

Tom Spangler, Sheriff
Knox County Sheriff's Office
400 Main Street
Knoxville, Tennessee 37902

RE: Officer Involved Homicide – 08/26/19 – 1716 Merchants Dr. Knoxville, TN 37912
KPD Ofc. Dylan Williams
Decedent: Channara Tom Pheap DOB 07/28/1986

Dear Sheriff Spangler:

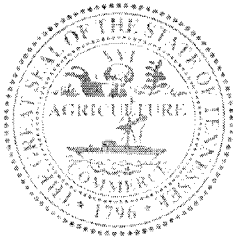
I have had the opportunity to review the case file in the above-referenced officer involved homicide. I have reviewed all of the relevant reports, transcripts, statements, photographs, videos, and evidence collected by your agency. Upon my review, I conclude that the above-referenced officer's actions were subjectively and objectively justified. I further conclude that the method, manner, and amount of force utilized in this incident amounted to a necessary response to thwart the threat involved. I am closing this investigation as a justifiable homicide.

Sincerely,

Charme P. Allen
District Attorney General

cc:

Knox County Sheriff's Office Detective James Hurst
Knoxville Police Department Chief Eve Thomas
Knox County Medical Examiner Dr. Darinka Mileusnic-Polchan



6TH JUDICIAL DISTRICT • KNOX COUNTY, TENNESSEE

CHARME P. ALLEN
OFFICE *of the* DISTRICT ATTORNEY GENERAL
P.O. BOX 1468 • KNOXVILLE, TN 37901-1468
PHONE 865.215.2515 • FAX 865.215.4253

MEMORANDUM

TO: Charme P. Allen
FROM: Sean F. McDermott
DATE: November 7, 2019
RE: Officer-Involved Homicide – 08/26/19 – 1716 Merchants Dr. Knoxville, TN 37912
KPD Ofc. Dylan Williams
Decedent: Channara Tom Pheap DOB 07/28/1986

I had the opportunity to review the case file in the above-referenced officer-involved homicide. I reviewed all of the relevant reports, transcripts, statements, photographs, videos, and evidence collected by the investigating agency. Upon review and for reasons stated herein, I conclude that the officer's actions were subjectively and objectively justified. I further conclude that the method, manner, and amount of force utilized in this incident amounted to a necessary response to thwart the threat involved. I recommend closing this investigation as a justifiable homicide.

Summary of the Incident

Pursuant to the Memorandum of Understanding for Officer Involved Shootings, the Lead Investigative Agency in this case was the Knox County Sheriff's Office. KCSO Major Crimes Detective James Hurst was the lead investigator. During the course of the investigation, the KCSO Forensics Unit processed the scene, collected evidence, video recorded the scene, and took hundreds of photographs. The Regional Forensic Center's medicolegal death investigator also photographed the scene. KCSO Major Crimes

detectives conducted interviews with numerous police and civilian witnesses, including Ofc. Williams, who described the scene before, during, and after the incident. Many witnesses were only able to provide information about events after the shooting. Detectives attempted to interview additional witnesses who made reports to the media but declined to cooperate during the investigation. Detectives collected E-911 calls, KPD radio traffic, social media photographs and video, Ofc. Williams' taser download, Ofc. Williams' cruiser video, Pheap's autopsy report, Pheap's toxicology report, a TBI forensic chemistry report, a TBI forensic biology report, Pheap's criminal history, KPD's hit-and-run report, and vehicle information about the subject vehicle. The investigation revealed the following:

On August 26, 2019, at approximately 5:19 PM, an eighty-one-year-old woman and her granddaughter were driving a 2015 Toyota Highlander SUV southbound on Elm Street crossing Baxter Avenue when they were struck by a gold sedan. The SUV was disabled by the wreck and ultimately had to be towed from the scene. The gold sedan, however, fled the scene travelling east on Baxter and onto I-275N. A motorist who was not involved in the accident followed the gold sedan and called 911. The motorist told the 911 dispatcher that a "goldish color" car hit another car on Baxter Avenue and that the wheel of that other car was bent. When asked for a description of the driver, the motorist said, "I want to say he's a Mexican or mixed. I'm not sure." He continued, "I'm staying a distance away cause I'm not gonna let him get mad." The dispatcher asked the motorist if he could see the license plate of the gold sedan. He replied, "I'm nervous cause I don't want for them to know I'm following them and for it to go from there." The motorist was ultimately able to view the license plate and stated, "His license

plate is 9MI-6Y5.” The dispatcher updated the CAD screen providing officers with the reported license plate number. The dispatcher told the motorist, “We do have their tag number now so we can definitely find them....We will get [officers] out to the area to see if they can find them, ok?” While the motorist was on the phone with 911, the granddaughter of the eighty-one-year-old woman driving the SUV also called 911 to report the crime. She reported to dispatch that a gold car hit her grandmother’s car and ran. KPD officers arrived at Baxter at Elm and discovered the disabled SUV. Officers began to investigate a violation of Tenn. Code Ann. § 55-10-102, Leaving the Scene of an Accident, as recorded in KPD Report #19-035343.

KPD Dispatch relayed the vehicle description information and license plate number to officers in the area. The recording of KPD radio traffic confirms that officers received information about the subject vehicle being a gold sedan with a license plate number of either 9M1-6Y5 or 9MI-6Y5. KPD Ofc. Dylan Williams was on duty working as the West District K9 Officer. In his interview with KCSO investigators, Ofc. Williams stated that when he received this information over the radio, he ran the license plate number in the Tennessee Criminal Justice Portal and came up with an address. A search of the Tennessee Criminal Justice Portal confirms that a search for license plate “9M1-6Y5” comes back to a 2001 Dodge Neon with an address of 1716 Merchants Drive, Apartment 1202, with a listed owner of Chelsea L. Beverwyk.¹

¹ In KPD Incident Report #18-006993, Beverwyk reported to police that Pheap was her boyfriend. When interviewed in this investigation, she told detectives that she and Pheap had been separated since the previous incident. She stated, “He beat the crap out of my son over a year ago, and I called DCS.” After the incident, she said Pheap was ordered to have only supervised visits with their child until he completed drug and alcohol abuse classes. She told investigators Pheap comes to her apartment to set up those supervised visits because he does not have a phone. She was not home during the incident. She told investigators that, while the 2001 Dodge Neon was registered in her name, she had allowed Pheap to use the car and take over payments for the car. Additionally, a subsequent search of the 2001 Dodge Neon contained documents belonging to Pheap, confirming his control of the vehicle.

With a vehicle description, license plate number, and listed address for the vehicle, Ofc. Williams stated he travelled to 1716 Merchants Drive to attempt to locate the suspect vehicle. Ofc. Williams' cruiser video activated as he pulled into the apartment complex. Ofc. Williams stated that he observed a gold sedan as he approached the first parking lot. When he got closer to the vehicle, he confirmed the license plate to match that of the suspect vehicle, 9M1-6Y5. Ofc. Williams parked his police vehicle angled behind the suspect vehicle. The suspect vehicle was unoccupied so Ofc. Williams approached a resident to try to gain more information about the owner of the vehicle.² Ofc. Williams' statement, the statement of the residents, and cruiser video confirm that Ofc. Williams asked for information about the owner of the vehicle and was directed to an apartment on the third floor. Ofc. Williams was directed around the corner of the building and up a hill between two apartment buildings. Ofc. Williams can be seen on cruiser video walking around the corner and up the hill to the area directed by residents. The third-floor apartments are only accessed by a stairwell on the opposite side of the building from where Ofc. Williams' vehicle was parked.

At 17:35:53 according to the time stamp on Ofc. Williams' cruiser video, as Ofc. Williams approached the stairwell to go to the third-floor apartment, Channara Tom "Philly" Pheap was coming down the stairs. Ofc. Williams described Pheap as looking "very nervous" and "fidgeting looking left and right as if looking for a place, planning an escape."³ On the audio from the cruiser video, Ofc. Williams can be heard asking Pheap

² Subsequent review of photographs reveal the 2001 Dodge Neon had sustained front-end damage consistent with the crash report. Ofc. Williams is not questioned about whether he observed that damage prior to engaging citizens; however, the damage is obvious.

³ A subsequent toxicology examination of Pheap's blood and urine revealed cocaine and cocaine metabolites were present in his system at the time of the incident, likely contributing to his "nervous" and "fidgeting" demeanor.

if he drove a car in the parking lot, which Pheap denied. Ofc. Williams asked Pheap what he had in his pocket to which Pheap replied that he had a wallet. Ofc. Williams asked Pheap for his identification. Ofc. Williams relayed on the radio that he was on scene with the suspect vehicle from the hit-and-run and asked for a description of the driver of the suspect vehicle. Ofc. Williams received the physical description of the driver as “Light to medium skin, black male or Hispanic.” Ofc. Williams observed that Pheap had a medium complexion, consistent with the description relayed by Ofc. Nelson Hamilton. Ofc. Williams asked Pheap repeatedly if he had his keys on him. Ofc. Williams instructed Pheap to keep his hands out of his pockets four times. Ofc. Williams noted that Pheap kept putting his hand in his pocket toward a bulge in his pants pocket. Ofc. Williams stated that based upon his training and experience and combined with Pheap’s nervous and fidgeting actions, Ofc. Williams was concerned the bulge could be a weapon. Acting under this suspicion that appears to be reasonable, Ofc. Williams decided to conduct a Terry pat for weapons and asked for consent to search Pheap’s pockets to see if he possessed the keys to the suspect vehicle.⁴ On the audio recording, Ofc. Williams asked Pheap to turn around, asked if he had keys in his pocket, and asked, “Do you care if I check real quick?”

At 17:36:59, audio from Ofc. Williams’ cruiser recording system shows that the fight began. Ofc. Williams stated that as he started to conduct a Terry pat, Pheap started to try to run forward. Ofc. Williams grabbed Pheap around the waist while Pheap tried to pull away, swinging his elbows at Ofc. Williams. Ofc. Williams tried a leg sweep maneuver to gain control of Pheap. As they were fighting, Ofc. Williams and Pheap slid

⁴ A key to the suspect vehicle was not found because the vehicle started by using a screwdriver or paint can opener, which was discovered in a subsequent search of the suspect vehicle lying on the passenger side front seat.

down the hill in between the two apartment buildings. Crime scene photographs show that the area where this initial fight took place was covered in mud and straw due to recent renovations at the apartment complex. Photographs show that Ofc. Williams' badge had been ripped from his uniform during the fight. As they came down the hill, Ofc. Williams and Pheap came into view on Ofc. Williams' cruiser video. The video shows a portion of the fight wherein Pheap lifts Ofc. Williams off the ground before rolling on top of him. Ofc. Williams described that while Pheap was on top of him, Pheap used his arm or hand to push on Ofc. Williams' throat, making it difficult to breathe. Ofc. Williams stated that this was the first point at which he feared for his life. The same witnesses that directed Ofc. Williams to the apartment on the third floor were able to see this portion of the fight happening at the bottom of the hill. Witness 3⁵ stated, "he had the cop down on the ground" and described the two pulling and struggling down the hill. Subsequent photographs documented that Ofc. Williams' uniform was mud-stained and disheveled. His badge was ripped from his uniform. Photographs documented bruises and/or abrasions on his back, right elbow, right wrist, right knee, left temple, left ear, left elbow, left bicep, left knee, and left calf. Photographs of the scene confirm that a struggle took place starting at the top of the hill between the two apartment buildings and continued down into the parking lot. Photographs show where the ground

⁵ Witness identification information is contained within the case file but is not used in this memorandum for privacy reasons. A total of five eyewitnesses observed the incident before shots were fired and will be referenced as "Witness X" herein. A summary of those statements is attached as Addendum A. The five eyewitnesses are numbered in accordance with their overall proximity to the incident and vantage point to the shooting. Witness 1, 2, and 3 can be observed on the cruiser video recording as they witness the event from a ground floor apartment patio vantage point directly in front of the cruiser video. These witnesses have a direct line-of-sight, unobstructed view of the incident. Witness 3 went back inside during the incident but observed from inside the apartment. Witness 4 and 5 observed the incident from inside the apartment next to Witness 1, 2, and 3, meaning the view and vantage point of Witness 4 and 5 is partially obstructed by the 2001 Dodge Neon and Ofc. Williams' cruiser.

had been disturbed during the fight. Photographs document where various personal items became dislodged or thrown during the fight.

On the cruiser video, Pheap stopped fighting Ofc. Williams at the bottom of the hill and ran into the parking lot to the right of Ofc. Williams' cruiser and off camera. Ofc. Williams pursued Pheap, drew his taser, and ordered him to stop. At 17:37:34 on the cruiser audio recording, Ofc. Williams stated twice, "I'm going to tase you." In his statement to investigators, Ofc. Williams stated that at this point Pheap stopped running and turned to face him with his hands up. Ofc. Williams said it is common for fleeing suspects to stop running when confronted with the prospect of being tased. Ofc. Williams said, "Get down on the fucking ground. On the fucking ground now." Ofc. Williams said that he closed the distance to within a few feet of Pheap. Ofc. Williams described that when he got close to Pheap, Pheap lunged forward and grabbed Ofc. Williams' taser with both hands. The TBI Official Forensic Biology Report stated that Pheap's DNA was found on the taser cartridge⁶ and that the DNA profile from the taser itself was consistent with a mixture of at least two individuals. These results corroborate Ofc. Williams' statement regarding details of the struggle over the taser. The cruiser audio recording also captured sounds of the struggle over the taser. Witness 4 described the two fighting and stated, "The suspect tried to get the taser....Yeah, he was trying to get [the officer]." Ofc. Williams again told investigators that he feared for his life because he knew that he could be incapacitated if Pheap gained control of the taser and that once he was incapacitated, Pheap could choke him again or gain control of his firearm. Ofc. Williams stated, "I got scared for my life because I know that this—I know

⁶ The taser cartridge is the component of the taser attached to the front/muzzle portion of the weapon, closest to the intended target.

what this taser can do. I know it's an incapacitating weapon and that if he gets control of this, he has the ability to possibly incapacitate me completely; take my gun; shoot me; choke me to death; whatever he wants to do because it will have me incapacitated." With this scenario in mind, Ofc. Williams stated he was trying to pull Pheap closer to his cruiser so that he could open a cruiser door to release his K9 from the vehicle to help take Pheap into custody. At this point, Pheap took the taser from Ofc. Williams. Once in possession of the taser, Pheap outstretched his arm, leveled the taser at Ofc. Williams, and fired.

To determine whether being shot with a taser qualifies as a threat of serious bodily injury, it is important to understand both how a taser operates and Ofc. Williams' understanding of the same. Ofc. Williams received training on tasers at the Knoxville Police Department Training Academy and at subsequent in-service training. According to training material, a taser is a conducted energy weapon that causes neuromuscular incapacitation when deployed. Essentially, a taser incapacitates a subject because the electricity conducted through the weapon causes involuntary muscle contraction, reducing the ability of the subject to perform voluntary movements. The extent of neuromuscular incapacitation depends on several factors, including the spread of the probes and the strength of contact of the probes. Neuromuscular incapacitation can range from limited areas of effect to total body lockup. Electricity can also be conducted by coming in contact with the taser wires or by touching a subject who is being tased. Ofc. Williams received this information when he was trained on the use of a taser. The training materials are included in the case file.

With this training in mind, Ofc. Williams described his mindset during the fight over the taser and while he was being shot with the taser. In his interview with investigators, Ofc. Williams explained how he was in fear for his life. He stated:

[A]s soon as [Pheap] showed that he was coming at me, and he's still attacking me and trying to overpower me and not give up, I...I got scared. I got scared for my life because I know that this...I know what this taser can do. I know it's an incapacitating weapon, and if he gets control of this, he has the ability to possibly incapacitate me completely: take my gun; shoot me; choke me to death; whatever he wants to do because it will have me incapacitated. So that's going through my head. I get scared....

Ofc. Williams understood that Pheap's use of the taser would necessarily render him utterly defenseless. Once Pheap took the taser away, Ofc. Williams said the fear escalated. When Pheap outstretched his arm and fired the taser, Ofc. Williams described what was going through his mind. He said, "I thought he was gonna kill me. I thought he's gonna shoot this at me, he's gonna incapacitate me, and he's gonna be able to take my gun and shoot me....I had time to think, I'm gonna die and thinking about my wife and kid that I'm never gonna see again. So that's what was going through my mind." He continued, "I think, this is it. . . . I have to end this threat as soon as I can because one split second and he could either be on top of me and overpower me or he could pull that trigger again, pull the taser again, and it only take that much."

Eyewitnesses from the ground floor of the apartment complex, with an unobstructed view, told investigators that Pheap took the taser away from Ofc. Williams and fired it. One witness even described hearing the sound of the taser firing.⁷ Witness 2

⁷ Because of background noise from the struggle and the location of Ofc. Williams' microphone on his duty belt, the sound of the taser was not discernable. The cruiser video was sent to the Regional Organized Crime Information Center Audio/Video Forensics Unit where an Audio/Video Specialist attempted to

described the event stating, "A cop knocked on the door asking [inaudible] brown car, and I sent him up there to the...upstairs from me. Next thing I know, he's running. He's chasing him with a taser, and the guy took the taser out of his hand, and the cop shot the guy." She continued, "I mean he wouldn't stop. Next thing I know, they're fighting around in the parking lot over the taser." The witness described Pheap taking the taser away from the officer and pointing it at Ofc. Williams. Witness 3 described the two fighting, coming down the hill and into the parking lot, next to the police cruiser. Witness 3 described how Pheap "had the cop down on the ground." She continued, "...the cop went to the car, and the guy grabbed him again so he didn't have, the cop did not have no [sic] chance of getting him in the car....And then the guy took the [taser] from him." Witness 1 described the scene stating, "A policeman knocked on the door wanting to know who drove that car out here. He went around to go get that guy. That guy came around, and they was [sic] fighting, and they got to the parking lot out here, and he had the police down, and then the police at first had the taser gun. That guy took the taser gun away, and that guy was walking backwards like this firing it." She continued, "I seen they [sic] take it out to the parking lot, and the policeman tries to put him in the car, and he tries to fight that policeman. The policeman has a taser gun. That guy took his taser gun away from him, then he was walking backwards like this firing the taser gun." The witness stated the two were no more than ten feet apart and described yellow taser wires.

Ofc. Williams stated that when Pheap pointed the taser at him, he turned to his left and shielded his face. Ofc. Williams said he heard the pop of the taser, felt the

enhance the quality of the audio recording. The efforts to enhance the audio did not provide any further clarity.

impact of the probes, and felt electricity in his arms and neck. The location of taser components corroborate the description of the incident given by Ofc. Williams and citizen witnesses. In his statement to investigators, Ofc. Williams said that as he was fighting with Pheap over the taser, he was trying to pull Pheap toward his cruiser so he could release his K9 partner. At that point, Pheap took control of the taser and fired it at Ofc. Williams. When a taser is fired, two gates break off either side of the front of a cartridge, and two prongs are ejected, each connected to a twenty-five-foot-long wire through which electricity is conducted. Additionally, very small pink or yellow circles of paper called anti-felon identification discs or AFIDs are ejected. KCSO documented the location of the various components of the taser. The taser trigger assembly and two gates from the cartridge were located near the rear passenger compartment of Ofc. Williams' police cruiser, corroborating his statement that he was attempting to pull Pheap toward his cruiser to release his K9 partner. AFIDs were also located toward the rear of the cruiser near Exhibit Q. When officers arrived after the shooting, some of the taser wire was still wrapped around Ofc. Williams. One of the taser probes was found hooked in Ofc. Williams' duty belt behind a handcuff holster, consistent with his account of turning to his left before Pheap fired the taser.

In addition to the physical components of a taser, an electronic log of events is created by the taser and can be downloaded for later examination. The log for Ofc. Williams' taser recorded all taser events from August 26, 2019. The log shows a "spark test" from the beginning of Ofc. Williams' patrol shift. Officers are trained to conduct such a test after being off duty to ensure the taser is functioning properly. The taser log also shows the taser was deployed at the time of the incident. The taser log shows that

the taser was armed for fifteen seconds then the trigger was pulled, and the taser was fired for five seconds. Any time the safety is turned off, the log shows that the device is armed. It also shows when the trigger is pulled and the duration of time during which the taser is engaged. This particular taser is designed to cycle for five seconds after the trigger is pulled. This means that when the trigger is pulled, electricity will be conducted through the taser for five seconds. Investigators attempted to synchronize the timestamp from the taser log with the timestamp from the cruiser video, but this was not possible for several reasons. The taser can lose time, known as time drift, until it is connected by USB cable to a server. The taser synchronizes to either the Axon server or to the computer into which it is plugged. The cruiser video was created by L3 Technologies and uses GPS technology to record information like time, latitude and longitude, and speed. Environmental factors and interference can affect the accuracy of these measurements. For example, while the cruiser is parked and stationary, the latitude and longitude measurements continue to change.

While the timestamps of these separate systems could not be synchronized, the twenty seconds of the taser being armed for fifteen seconds and cycling for five correspond with the twenty seconds between when Pheap and Ofc. Williams are seen on camera fighting until when two shots are fired. According to the cruiser video, Ofc. Williams fired two shots at 17:37:53. Twenty seconds before the shots were fired, Pheap and Ofc. Williams had just become disengaged from the first fight at the bottom of the hill. Ofc. Williams told investigators that while the two were struggling during the first fight, he could not reach his taser because Pheap was on top of him. On video, Pheap was on top of Ofc. Williams. When Pheap got off Ofc. Williams and ran off camera,

Ofc. Williams pursued Pheap and gave a taser warning. This first taser warning was given nineteen seconds before shots were fired, corresponding with the arming of the taser. The taser was armed for fifteen seconds before the trigger was pulled. During this time, cruiser audio recorded Ofc. Williams giving two taser warnings and two commands to get on the ground. Audio then captured a second struggle. Twenty seconds after the two ran off camera and nineteen seconds after the first taser warning, audio captured two shots being fired.

At 17:37:53, Ofc. Williams drew his service weapon and fired two rounds at Pheap, with one round striking Pheap. A .45 caliber shell casing was recovered in the grass next to the parking lot, consistent with Ofc. Williams being located next to the rear passenger door of his vehicle and firing toward the taser trigger assembly, causing the casing to be ejected to the right of the shooter. After firing, Ofc. Williams says, "Drop it." Upon being shot, Pheap ran around the corner of a dumpster. Ofc. Williams stated, "[H]e starts running so I didn't even think I hit him." Ofc. Williams did not fire any additional rounds as Pheap was retreating. He stated that he pursued Pheap and gave several more commands for Pheap to stop. Witness 1, Witness 4, and Witness 5 said Pheap reached into his pocket and threw something white on the ground. KCSO collected a small piece of tin foil next to Pheap. TBI forensic chemical analysis showed the residue inside the foil was cocaine. Pheap collapsed on the other side of the dumpster. KCSO documented a trail of blood from the parking lot, around the dumpster, to Pheap's final location. Ofc. Williams radioed, "Shots fired; suspect down," at 17:38:13. KCSO collected Ofc. Williams' firearm, which showed that two rounds had been fired. The location of blood droplets documented in the parking lot further

corroborate that Pheap was struck with gunfire within the reach limits of the taser assigned to Ofc. Williams.

Social media videos that began less than a minute after the shooting show that Ofc. Williams remained near Pheap until other officers and medical personnel arrived. He asked witnesses to stay at the scene so they could provide statements to investigators. He checked on Pheap and called for an ambulance. He remained near Pheap and did not disturb the physical evidence. Within a minute of the shooting, a citizen can be heard asking Ofc. Williams why he shot Pheap to which he responded that Pheap had taken his taser and was tasing him, consistent with Ofc. Williams' subsequent statement to investigators. KPD secured the scene with crime scene tape. KCSO was notified within three minutes of the shooting and took command of the scene, collecting evidence, taking photos and video, and conducting interviews.

In addition to KCSO, the Knox County Regional Forensic Center responded to the scene to conduct a medicolegal death investigation as part of the final autopsy. Chief Deputy Medical Examiner Christopher Lochmuller performed the autopsy of Pheap and announced his findings in Final Autopsy Report #190826-410.⁸ The autopsy revealed, "a single gunshot wound on the left side of the upper back associated with significant internal bleeding, a fractured rib and severe organ injury. A bullet was recovered from the right side of the chest." Autopsy photographs show the entrance wound is just behind Pheap's left armpit, travelling left to right, and lodging in his right chest. The bullet struck Pheap's left upper lung, aorta, esophagus, and right upper lung. The path of travel

⁸ As part of the autopsy, Dr. Lochmuller also submitted blood, urine, and vitreous fluid samples to the Tennessee Bureau of Investigation Crime Lab for toxicologic analysis. The TBI submitted an Official Toxicology Report showing Pheap was positive for cocaine at the time of the shooting. Pheap was also positive for the cocaine metabolites anhydroecgonine methyl ester and ecgonine methyl ester. He was also positive for the common cocaine cutting agent levamisole.

of the bullet is consistent with Pheap standing perpendicular to Ofc. Williams. It is consistent with Ofc. Williams' statement and witness statements that Pheap outstretched his arm, firing the taser. The bullet travelled laterally, from left to right, across Pheap's upper torso, not back to front as if Pheap was facing away from Ofc. Williams.

Some media outlets initially reported that information from the Medical Examiner's Office stated that Pheap had been "shot in the back." This information seemed to be an extremely distorted interpretation of the Final Autopsy Report. As a result, I contacted Dr. Lochmuller to seek clarification on several issues. While the entrance wound is in Pheap's back, to the extreme left side, Dr. Lochmuller stated, "to say he was shot in the back is disingenuous." He continued, "It is not consistent with [Pheap] running away and being shot in the back." It is essentially a side-to-side shot, with Pheap's left side facing the gun. He could not say anything about Pheap's left arm placement other than the arm was not in a far back position. He stated a reasonable interpretation could either be that Pheap had his left side to Ofc. Williams or that the two were facing each other and when Ofc. Williams drew his weapon and fired, Pheap turned to his right. The evidence was "not like [Pheap] had his back to the officer." As to soot and stipple, Dr. Lochmuller stated that he examined the shirt and did not find any evidence of soot or stipple.⁹ He noted the shirt had a large amount of blood around the entrance wound and that sometimes enough blood on the shirt can obscure soot particles. He can say that this was not a contact shot. As to aspiration, Dr. Lochmuller said that there was some amount of aspiration, but the amount of blood in the lungs was not great. Essentially, the blood that would have been pumped to the lungs bled out into the chest

⁹ Evidence of the existence of gunshot soot and stippling injuries around the wound site can assist in the determination of range of fire. The lack thereof is not conclusory.

cavity. Because the spinal cord was not damaged, Pheap had ten to fifteen seconds of blood in his brain to continue mobility, explaining his ability to run after being shot. The examination of the scene revealed the first drops of aspirated or expelled blood were located at Exhibit E in the scene diagram attached hereto. This distance represents approximately the width of two parking spaces between the struggle described by witnesses at the rear of the cruiser and the first evidence of blood droplets in Pheap's path of travel from the struggle to where he collapsed. I approximated this distance to be twenty to twenty-five feet. This blood location is consistent with Pheap being hit by gunfire and retreating as he begins to bleed along his final path.

Witness Statements

Of the numerous witnesses interviewed by KCSO, only five individuals plus Ofc. Williams were eyewitnesses to the events that transpired before shots were fired. The remaining witnesses only gave information about events after the shots had been fired. While all witness accounts differ in some respect or another, the key difference is whether Pheap was still firing the taser as he was moving.¹⁰ Witness 1 stated Pheap was firing the taser while walking backward but still facing Ofc. Williams. She heard the taser fire and heard two gunshots approximately two seconds after Pheap fired the taser at Ofc. Williams. Witness 2 stated that Pheap and Ofc. Williams were fighting in the parking lot over the taser. She said Pheap shot Ofc. Williams with the taser. She stated that she heard the taser go off then heard two shots. She stated that the gunshots were either five minutes or five seconds after the taser was fired. Witness 2 said at one point that Pheap had dropped the taser before the shots and at one point she said that Pheap had

¹⁰ As discussed supra, reconciling the cruiser camera clock with the internal taser log and taser commands heard on the cruiser camera lead to the logical conclusion that the taser is actively delivering current when the shots are fired by Ofc. Williams.

dropped the taser after the shots. In Witness 2's account, the location of the struggle over the taser also changes from next to the dumpster to an area behind a neighbor's vehicle closer to Ofc. Williams' cruiser. Witness 3 stated Pheap was trying to hit Ofc. Williams with the taser while Pheap was running. She described Pheap running backwards, firing the taser, with the taser in his hand. Witness 4 stated she saw the two fighting over the taser and saw the officer fall. She stated Pheap started to run, and Ofc. Williams fired. Witness 4 said Pheap was in the grass in front of her apartment when he was shot. She said Ofc. Williams was ten to fifteen feet behind Pheap. None of the physical evidence or other witness statements corroborate this account. The blood trail of Exhibits A-E does not corroborate this account. Additionally, if Pheap was shot where Witness 4 stated, the shooting would have been captured on Ofc. Williams' cruiser video. Witness 5 stated he saw the two fighting on the rear driver's side of the police cruiser before he lost sight of them behind the cruiser. Witness 5 first stated that Pheap was running before he heard shots then he stated that he could not see where Pheap and Ofc. Williams were located when the shots were fired because his view was obstructed by the police cruiser. Witness 5 had the same vantage point as Witness 4 as they were at the same window with Witness 5 looking over Witness 4.

The law has always recognized that statements made while perceiving an event or while under the excitement or pressure of an event are inherently reliable. See Tenn. R. Evid. 803(2) and 803(3). Those statements are traditionally viewed as trustworthy because a declarant has little opportunity to fabricate or create a false description of an event as it is being perceived. In that regard, Ofc. Williams can be heard two seconds after gunshots yelling "drop it" in a loud command to Pheap. No other conclusion can be

drawn from this fact other than the conclusion that Pheap is still holding the taser after being shot, thereby corroborating Ofc. Williams' statement.

Local media outlets have reported that Pheap was shot in the back while running away from Ofc. Williams. Despite the fact that these persons left the scene without providing information to the investigators, I requested that KCSO interview any individuals who made statements to the media so their information and evidence could be included as part of the investigation. Shortly after arrival, KCSO conducted a "canvass" of the apartment buildings within view of the scene by going door to door at each apartment, asking for assistance of any persons present who may have witnessed the incident. The following claimed witnesses were not present or refused to provide information, yet nonetheless provided the media with names and statements indicating they may have been eyewitnesses. In local media reports, Denzel Grant¹¹ told reporters, "When the young man tried to run away from the law enforcement officer, that's when shots were fired." Amelia Young, WBIR, "Community activists push for more transparency within KPD after officer-involved shooting." Published August 27, 2019. Grant was not seen at the apartment complex until well after additional police, fire, and EMS personnel arrived. When he arrived, Grant started a Facebook Live video in which he claimed that an unarmed seventeen-year-old black male had been shot by police. When Det. Hurst attempted to interview Grant, he declined to cooperate in the investigation, stating he would need permission from Pheap's family attorney before talking to KCSO. Pheap's family attorney was contacted and stated he would try to contact Grant to see if he is now willing to sit down for an interview. On October 28,

¹¹ This name and the name of Billy Johns, Jr. and Takenya Hyatt have not been redacted for privacy reasons because these individuals have already spoken publicly about the incident.

Pheap's attorney provided a phone number for Grant. When investigators attempted to contact Grant at the number provided, the investigators learned that the number is no longer in service. Investigators with this office also attempted to contact Grant through social media to set up an interview. Grant finally talked to Investigators on October 30. Grant stated that he did not arrive at the scene until after the shooting took place. Grant was not a witness to the events that transpired before the shooting or the shooting itself.

A person who identified himself as Billy Johns, Jr. told the media that Pheap was running diagonally across the parking lot. He stated, "I'm watching him run, and in the process of watching him run, the gunshots started, like 'pop, pop, pop'." Despite his failure to provide information at the scene, KCSO tried to contact Johns to interview him, but none of the phone numbers or addresses for Johns were successful. Investigators contacted the woman Johns was visiting on multiple occasions in order to try to locate Johns. The woman told investigators that Johns did not actually see the incident. She said he only went outside after the shots were fired. She repeatedly asked Johns to contact investigators, which he declined, but Johns did send her video he captured. The video starts after the shooting.

Despite his refusal to cooperate with the investigation, Billy Johns, Jr., could be considered a sixth witness to the incident based upon the media report of his statement.

The media reported:

Billy Johns Jr., a 44-year-old forklift operator who lives in Georgia, said he was at Clear Springs on Monday to visit the mother of his son, who lives in a second-floor apartment at the complex. Johns said he had stepped out onto the balcony to warm up when he saw a man running diagonally across the street in front of the apartment building. "He didn't look scared. He didn't look as if he was running from something," Johns said. "But it looked like he had to be somewhere. I'm watching him run,

and in the process of watching him run, the gunshots started, like 'pop pop pop.'" Johns said he heard the gunshots as Pheap approached the dumpster in front of the apartment building. Pheap moved to the other side of the dumpster, he said, then collapsed face down in the grass there. From his vantage point on the balcony, Johns said he could not see who had pulled the trigger and so he stayed back, fearing more gunfire. Johns estimated some 15 or 20 seconds passed before he saw a police officer move down the sidewalk toward Pheap's body from behind. Jones said he did not see a scuffle between Pheap and the officer.

Travis Dorman, Knoxville News Sentinel, "Man killed by Knoxville police officer was shot in the back, death report says." Published August 30, 2019. Johns stated he was visiting the mother of his son. The mother told investigators she was at work during the incident, and her son was not at the apartment either. Johns posted a video to Facebook and YouTube that starts approximately one minute after the shooting. The video was titled "Facts shot in the back...i videoed after i wittness the shooting..no brown car or or k-9 parked !!" In a comment about the video, Johns stated, "Knoxville police department..i videoed after i seen The victim running across the tillary ridge apts parking lot. Then heard shots..officer no where around..no victims car around or k-9 vehicle..as spoken.." In the video, Johns made statements as though he eyewitnessed events, but he then contradicted himself. For example, at one point, Johns stated there was a "fight back in the woods." Later, he said, "The Mexican [Pheap] was whopping his ass. Had to be." Johns also said he did not see a scuffle between Pheap and Ofc. Williams. Johns said Pheap was "fifteen yards away." However, Johns told the media that he could not see where the shots came from, calling into question his estimation of Pheap being fifteen yards away from something Johns could not see. Also, in the video, Johns said at one point there were two shots and then said three shots later in the video. The video also showed that the view from Johns' vantage point was obstructed by a tree. This

obstructed view may account for Johns' assertion that "no brown car or k-9 [car were] parked" and "no victims car around or k-9 vehicle..as spoken" when very clearly from the evidence, Pheap's vehicle and Ofc. Williams' K-9 cruiser were parked in the parking lot. If Johns could not see the two vehicles around which the rest of the witnesses place the key events of this incident, the entirety of his statement is called into question. Other statements Johns made were also contradicted by other evidence. Johns stated that Pheap was shot as he "approached the dumpster." The cruiser camera and other forensic evidence show that two shots were fired in rapid succession where only one struck its intended target. The location of the recovered casing was wholly consistent with Ofc. Williams' reported shooting position/location in his statement. As described by Ofc. Williams, the trajectory of the errant shot would have been into the tree line at the far end of the parking lot. If Johns' statement were accurate, the backdrop behind Pheap would have been the dumpster, dumpster enclosure, and other cars in the parking lot. No collateral damage from the errant shot was discovered by investigators or reported thereafter. Johns further stated that it was fifteen to twenty seconds before Ofc. Williams moved down the sidewalk to where Pheap collapsed. On the cruiser audio, Ofc. Williams pursued Pheap immediately after he fired two shots and already stopped running and radioed dispatch fifteen to twenty seconds after the shots. Ofc. Williams can be heard on the cruiser video shouting commands at Pheap in the encounter before and after firing the fatal shot. In that regard, Johns' characterization to the media that Pheap was almost casual in his manner and that Ofc. Williams appeared out of nowhere defies common sense and seriously undermines Johns' credibility. During attempts to locate Johns for an interview, the mother of his son told investigators that Johns told her that he only saw

what was on the video. She also told investigators that Denzel Grant paid Johns' phone bill for him after they talked about the incident. These issues combined with Johns' refusal to cooperate with investigators cause serious concerns about the credibility of his account of events.

Another media report stated that Takenya Hyatt "approached Pheap's body after the shooting and saw two bullet holes in the bloodied back of his shirt, below each shoulder." Dorman, *id.* Det. Hurst attempted to interview Hyatt, but she was unwilling to talk to investigators. The Medical Examiner collected and examined Pheap's shirt, which revealed only one bullet hole. The anatomical findings of the autopsy also only revealed one gunshot wound. The physical evidence and autopsy photographs do not corroborate this reported account.

Several witness statements mention Pheap running at various times. Some mention Pheap running from the bottom of the hill to the parking lot. Some also mention Pheap running from the parking lot to the dumpster. Some only became aware of the incident after the shots had already been fired, shedding no light on what led to the shooting. Some witnesses gave information that was not supported by the physical evidence, for example, one witness reported seeing a "bald-headed black guy" running. Witnesses described up to six shots being fired.

When witness statements are both inconsistent with each other and internally inconsistent, it is important to view the statements in conjunction with the physical evidence and anatomical findings. When viewed through this lens, the proof supports Ofc. Williams' statement that he fired at Pheap while Pheap was firing the taser at him. Looking at the crime scene diagram, Ofc. Williams' statement, and that of several

witnesses, place him near the rear right quarter panel of his police cruiser, in the middle of a triangle created by Exhibits O, P, and Q. Those exhibits were the taser trigger assembly and two taser gates, respectively. If Ofc. Williams fired at Pheap who was in possession of Exhibit O, the shell casing from Ofc. Williams' firearm would be ejected to the right. Exhibit S was the shell casing recovered by KCSO.¹² Exhibit S was located to the right of Exhibit Q, where the AFIDs were also located, looking at Exhibit O. Additionally, if Pheap was running away, the trajectory of the gunshot wound would have been completely different, travelling back to front instead of the actual anatomical findings of the autopsy showing the trajectory moving laterally across his body, left to right. Further, the twenty seconds logged by the taser correspond with the twenty seconds the two were off camera before shots were fired. The timeline contradicts the possibility that Pheap had disengaged from the fight with Ofc. Williams over that taser and had enough time to run away before being shot. Viewed under the totality of the circumstances, the evidence supports that Ofc. Williams shot Pheap while Pheap was shooting Ofc. Williams with the taser.

Legal Analysis

The Tennessee state law providing the legal framework to determine whether the use of deadly force is justified can be found in Tenn. Code Ann. §§ 39-11-611 and 620. Self-defense is defined in Tenn. Code Ann. § 39-11-611. In relevant part, the statute states:

(b)(1)[A] person who is not engaged in unlawful activity and is in a place where the person has a right to be has no duty to retreat before

¹² Despite the use of metal detectors to canvass the area, only one shell casing was recovered by KCSO. Because of the rapid succession of the two shots, the trajectory of the casings would have been similar, placing the missing casing somewhere in the grass near Exhibit S.

threatening or using force intended or likely to cause death or serious bodily injury, if:

- (A) The person has a reasonable belief that there is an imminent danger of death or serious bodily injury;
- (B) The danger creating the belief of imminent death or serious bodily injury is real, or honestly believed to be real at the time; and
- (C) The belief of danger is founded upon reasonable grounds.

This self-defense statute applies to all individuals facing an imminent danger of death or serious bodily injury. A separate statute addresses use of force by law enforcement officers to make an arrest. Tenn. Code Ann. § 39-11-620 states:

- (a) A law enforcement officer, after giving notice of the officer's identity as such, may use or threaten to use force that is reasonably necessary to accomplish the arrest of an individual suspected of a criminal act who resists or flees from the arrest.
- (b) Notwithstanding subsection (a), the officer may use deadly force to effect an arrest only if all other reasonable means of apprehension have been exhausted or are unavailable, and where feasible, the officer has given notice of the officer's identity as such and given a warning that deadly force may be used unless resistance or flight ceases, and:
 - (1) The officer has probable cause to believe the individual to be arrested has committed a felony involving the infliction or threatened infliction of serious bodily injury; or
 - (2) The officer has probable cause to believe that the individual to be arrested poses a threat of serious bodily injury, either to the officer or to others unless immediately apprehended.

The two statutes hinge on whether the officer had a reasonable belief or probable cause to believe that the subject posed a threat of imminent death or serious bodily injury. The United States Supreme Court has instructed that the reasonableness of the use of deadly force must be viewed from the perception of the officer under the apparent circumstances presently perceived. See Graham v. Connor, 490 U.S. 368 (1989).

In this case, it is clear that Ofc. Williams had probable cause and a reasonable belief that Pheap posed a threat of imminent death or serious bodily injury. As described above, Ofc. Williams was engaged in a violent altercation with Pheap. The evidence corroborates that the fight started at the top of the hill between the two apartment buildings and continued down the hill. During the fight, Pheap was able to lift Ofc. Williams off the ground, roll on top of him, and attempt to choke him. Pheap ran into the parking lot but stopped when Ofc. Williams stated he would tase Pheap. Pheap turned to face Ofc. Williams and lunged to grab the taser. The two continued to struggle over the taser before Pheap gained control of the weapon and fired it at Ofc. Williams. As discussed above, Ofc. Williams was familiar with the operation of a taser and the effect it causes. He knew that tasers cause neuromuscular incapacitation when deployed. He knew the taser would render him defenseless, and he was in fear for his life.

Based upon the training and experience of Ofc. Williams and his statement to investigators, Ofc. Williams had probable cause to believe that Pheap posed a threat of serious bodily injury under Tenn. Code Ann. § 39-11-620. Additionally, Ofc. Williams had a reasonable belief, founded upon reasonable grounds, that Pheap posed an imminent real danger of death or serious bodily injury as discussed in the self-defense statute, Tenn. Code Ann. § 39-11-611.

Conclusion

In conclusion, the shooting was justified as self-defense, and the homicide investigation should be closed. Additionally, it is my opinion that the shooting was constitutionally sound under the principles outlined by the United States Supreme Court and Tennessee state law.

Addendum A

Witness 1

- Vantage Point: Outside Apt. 1003
- Saw Pheap pull in and walk upstairs
- Saw Ofc. Williams arrive less than five minutes later
- Heard Witness 3 tell Ofc. Williams to go upstairs
- Saw Ofc. Williams and Pheap fighting at the end of the building with Pheap on top of Ofc. Williams
- Saw Pheap and Ofc. Williams run into parking lot
- Saw Pheap and Ofc. Williams fighting over the taser at the right rear bumper of the cruiser [near Exhibit Q and the AFIDs]
- Said Pheap took the taser from Ofc. Williams and fired
- Stated Pheap was firing the taser while walking backward but still facing Ofc. Williams
- Heard the taser fire and heard two gunshots approximately two seconds after Pheap fired the taser at Ofc. Williams
- Saw Pheap run toward the dumpster
- Saw Pheap throw something out of his pocket

Witness 2

- Vantage Point: Outside Apt. 1003
- Saw Pheap pull in and walk upstairs
- Saw Ofc. Williams arrive less than five minutes later
- Said Ofc. Williams asked about the owner of the gold car
- Directed Ofc. Williams around the building to the stairs accessing the top floor
- Saw Pheap and Ofc. Williams run to the driver's side of her neighbor's car to the area behind her neighbor's car and to the right of the cruiser
- Stated that Pheap and Ofc. Williams were fighting in the parking lot over the taser
- Said shooting happened by the dumpster
- Said Pheap shot Ofc. Williams with the taser
- Heard the taser sound like a shock
- Stated that the gunshots were either five minutes or five seconds after the taser was fired
- Said at one point that Pheap had dropped the taser before the shots and at one point she said that Pheap had dropped the taser after the shots
- Said Pheap was running, facing away from the officer with his head looking back
- The location of the struggle over the taser changes from next to the dumpster to an area behind a neighbor's vehicle closer to Ofc. Williams' cruiser
- Said Pheap and Ofc. Williams were approximately twelve feet apart when shots were fired

Witness 3

- Vantage Point: Inside Apt. 1003
- Heard Ofc. Williams ask about the driver of the gold car
- Directed Ofc. Williams upstairs
- Saw Pheap and Ofc. Williams fighting in the area between the two buildings
- Saw Pheap on top of Ofc. Williams
- Saw Pheap and Ofc. Williams fighting as they moved down the sidewalk to the driver's side of Pheap's car and driver's side of Ofc. Williams' cruiser
- Said the two were in a physical fight until Pheap was shot
- Said Ofc. Williams was on the driver's side of his cruiser when he shot Pheap
- Said Pheap and Ofc. Williams were fighting for ten to fifteen minutes
- Saw Pheap take the taser from Ofc. Williams
- Saw Pheap run and heard Ofc. Williams say stop then Ofc. Williams fired
- Said Pheap and Ofc. Williams were on the passenger side of the cruiser fighting over the taser
- Said Pheap ran next to the wooded area around the dumpster then she heard two shots
- Stated Pheap was trying to hit Ofc. Williams with the taser while Pheap was running
- Said Pheap had the taser the whole time
- Described Pheap running backwards, firing the taser, with the taser in his hand

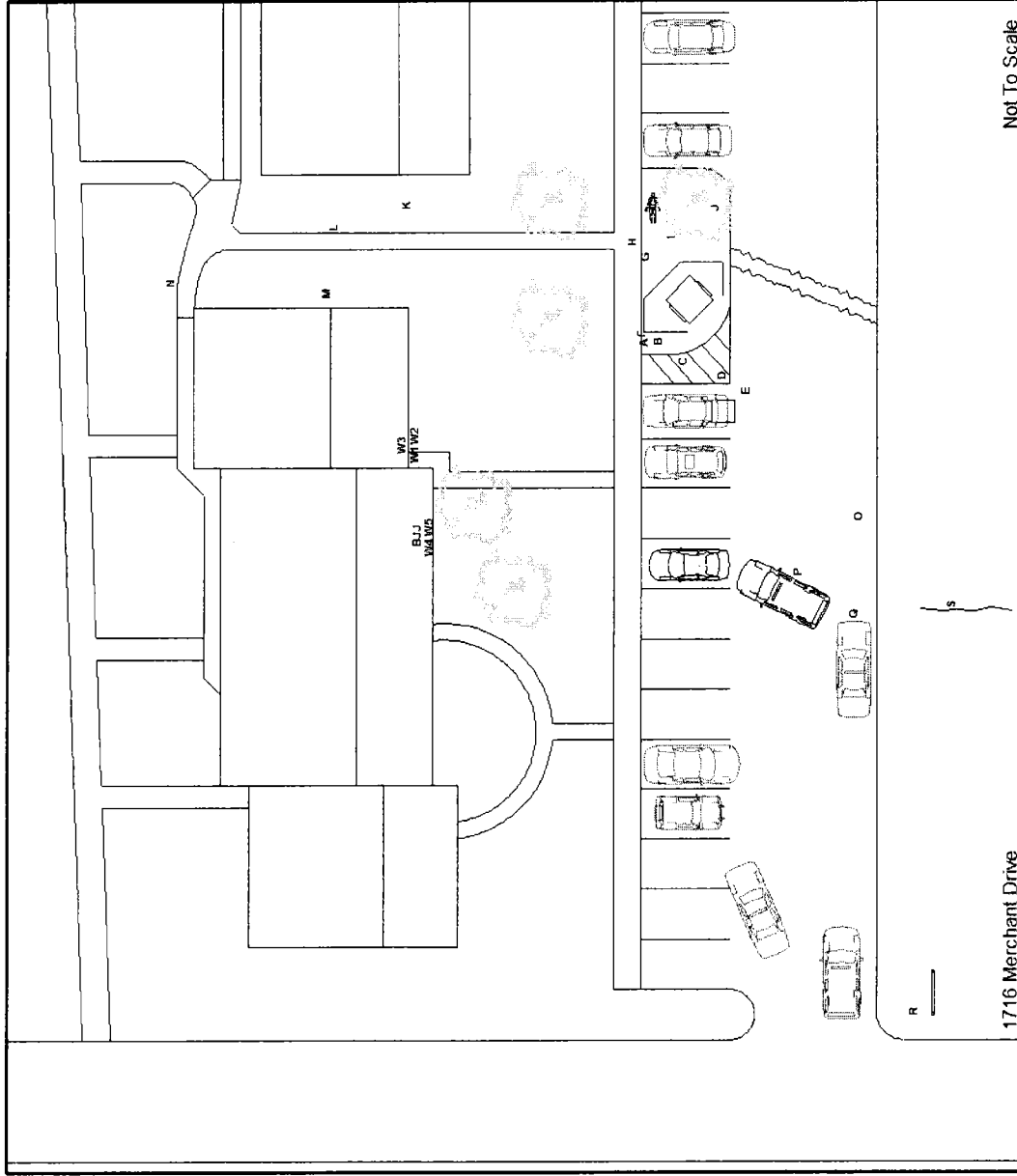
Witness 4

- Vantage Point: Inside Apt. 1002
- Heard Witness 5 say two people were fighting
- Went to window and saw Pheap and Ofc. Williams fighting on the driver's side of the cruiser
- Saw Pheap and Ofc. Williams standing face-to-face with Pheap's arm around Ofc. Williams' neck
- Saw the two fighting over the taser
- Saw the coils, not the taser itself
- Saw them fighting over the taser on the sidewalk in front of her apartment and saw the officer fall
- Stated Pheap ran in front of the car toward her apartment
- Saw Ofc. Williams run between his cruiser and Pheap's vehicle
- Saw Ofc. Williams draw his gun and fire two shots
- Said Ofc. Williams was ten to fifteen feet behind Pheap
- Stated Pheap was facing away from Ofc. Williams when he was shot
- Saw Pheap drop something out of his pocket with his right hand
- Said Witness 5 was looking over her head at the same incident
- Said Pheap was in the grass in front of her apartment when he was shot

Witness 5

- Vantage Point: Inside Apt. 1002
- Looked out the window and saw a police cruiser
- One to two minutes later, saw Pheap and Ofc. Williams fighting on the rear driver's side of the police cruiser
- Saw Pheap and Ofc. Williams fall to the ground behind the cruiser
- Lost sight of Pheap and Ofc. Williams behind the cruiser
- Saw Pheap run toward dumpster
- Heard shots after Pheap was running
- Saw Pheap limping and throwing something out of his pocket
- Said he doesn't know exactly where Pheap was when he was shot because his view was obstructed
- Witness 5 had the same vantage point as Witness 4 as they were at the same window with Witness 5 looking over Witness 4.
- Said Ofc. Williams shot Pheap with the taser then Pheap pulled the taser out and tried to stick it back on Ofc. Williams
- Heard two or three shots
- Said Pheap and Ofc. Williams were behind the car, heard the shots, and saw Pheap run to the dumpster

- A - REDDISH BROWN STAINING
- B - REDDISH BROWN STAINING
- C - REDDISH BROWN STAINING
- D - REDDISH BROWN STAINING
- E - REDDISH BROWN STAINING
- F - TASER CARTRIDGE
- G - U.S. CURRENCY
- H - KEY
- I - CIGARETTE PACKAGE
- J - MEDICAL KIT
- K - KPD BADGE
- L - WALLET
- M - LIGHTER
- N - U.S. CURRENCY
- O - TASER
- P - TASER DOOR
- Q - TASER DOOR
- R - FLASHLIGHT
- S - SPENT CASING



Not To Scale

1716 Merchant Drive